



May 2, 2012

Fethi Benjemaa  
Department of Water Resources  
901 P Street, Suite 313A  
Sacramento, CA 95814

*Sent via email to: jemaa@water.ca.gov*

RE: Comments on proposed agricultural water measurement regulation

Dear Mr. Benjemaa:

On behalf of the Natural Resources Defense Council, Pacific Institute, and Sierra Club California, we are writing with qualified support for the modifications to the proposed agricultural water measurement regulation, as adopted by the California Water Commission ("Commission") for public comment on April 18, 2012. We urge the Commission to approve the modified proposed regulation and submit it to the Office of Administrative Law (OAL) for review.

The current version of Section 597.3(b)(1)(B) of the draft agricultural water measurement regulation is facially consistent with the requirements of SB 7x 7 (the Water Conservation Act of 2009). Both OAL and the Department have acknowledged that cost considerations are not a valid basis for an exemption from the statutory requirement to measure at the farm gate. As such, section 597.3(b)(1)(B) of the proposed regulation has been modified to ensure that *technical feasibility*, rather than cost, is the basis for an exemption to the requirement for farm-gate measurement. This narrows the exemption to only those very difficult cases where accurate measurement cannot be achieved using any combination of manufactured, on-site built, or in-house built measurement devices:

*"...accuracy standards of measurement options in §597.3(a) cannot be met by installing a measurement device or devices (manufactured or on site built or in-house built measurement devices) with or without additional components (such as gauging rod, water level control structure at the farm-gate, etc)."*

The statute requires farm gate measurement in order to obtain accurate customer delivery data and to be able to implement volumetric pricing. Water Code § 10608.48(b). In the 2009 Water Plan Update (page 2-23), DWR concluded that, “Lack of data, mainly farm-gate irrigation water delivery data, is an obstacle for assessing irrigation efficiencies and planning further improvement” in agricultural water use efficiency. In addition, all of the methods and many of the indicators in DWR’s draft report on quantifying agricultural water use efficiency<sup>1</sup> require accurate data on the volume of water delivered to the farm gate. Thus, it is critical that exemptions to farm-gate measurement be extremely narrow and be based on the limits of current technology rather than cost considerations.

In practice, it is clear that there are cost-effective options for farm-gate measurement already available and in-use for delivery conditions that DWR previously considered to challenging to measure at the farm gate (for example, Reclamation District 108 and the Yolo County Flood Control and Water Conservation District). As a result, we anticipate that measurement will occur at the farm gate in the vast majority of cases, except for a small number of turnouts where an engineer determines, using best professional practices (site visits, measurement of flows with various measurement devices and additional components, etc.), that the measurement standard in section 597.3(a) for that farm gate cannot be met.

### Conclusion

Under SB 7x 7, water suppliers are required to measure the volume of water delivered to the farm gate and to implement volumetric pricing as of July 31, 2012. Water suppliers, themselves, are aware of this requirement and a recent field-tour of irrigation districts organized by the Department revealed that even in rice-growing regions water suppliers were developing cost-effective ways to measure water deliveries at the farm-gate using more than one device. As currently drafted, section 597.3(b) is consistent with the statutory requirement that cost is not a valid basis for exemption from farm gate measurement, while also appropriately allowing water suppliers flexibility to determine the most cost-effective manner in which to measure at the farm gate while meeting the necessary accuracy standards.

While we believe that there will always be room for improvement and clarification, the stakeholder process has resulted in a series of compromises that will ensure that the regulation is consistent with the statute and is feasible in terms of implementation. Given the vast amount of time and resources that this process has required, and the possibility that another 15-day comment period could require an entirely new rule-making process to begin, we encourage quick and decisive action on behalf of the Commission to approve the regulation without any changes and submit it to OAL for review.

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<sup>1</sup> This report also was required by SB 7x7. See Water Code § 10608.64. The latest draft of the report is available online at: [http://www.water.ca.gov/calendar/materials/draft\\_ag\\_water\\_use\\_04132012\\_13874.pdf](http://www.water.ca.gov/calendar/materials/draft_ag_water_use_04132012_13874.pdf), and is incorporated by reference.

*Comments on draft agricultural water measurement regulation*

*May 2, 2012*

Thank you for consideration of our views. Please contact us at your convenience if you have any questions about these comments or would like to discuss them in advance of the Water Commission meeting.

Sincerely,

/s

Doug Obegi

Natural Resources Defense Council

/s

Juliet Christian-Smith

Pacific Institute

/s

Jim Metropulos

Sierra Club California